

## Office of the Secretary, Interior

## § 12.912

subpart shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in Section 12.904.

### § 12.904 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this subpart when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this subpart shall be permitted only in unusual circumstances. Federal awarding agencies may apply more restrictive requirements to a class of recipients when approved by OMB. All requests for class deviations shall be processed through the Assistant Secretary-Policy, Management, and Budget. Federal awarding agencies may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by Federal awarding agencies. Bureau/office application of less restrictive requirements when awarding small awards, except for those requirements which are statutory, as well as exceptions on a case-by-case basis, will be handled by designated officials identified in bureau/office procedures.

### § 12.905 Subawards.

Unless sections of this subpart specifically exclude subrecipients from coverage, the provisions of this subpart shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals, or other non-profit organizations. State and local government subrecipients are subject to the provisions of regulations implementing the grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 43 CFR part 12.

#### PRE-AWARD REQUIREMENTS

### § 12.910 Purpose.

Sections 12.011 through 12.917 prescribe forms and instructions and other

pre-award matters to be used in applying for Federal awards.

### § 12.911 Pre-award policies.

(a) *Use of Grants and Cooperative Agreements, and Contracts.* In each instance, the Federal awarding agency shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-6308) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement." Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) *Public Notice and Priority Setting.* Federal awarding agencies shall notify the public of their funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

### § 12.912 Forms for applying for Federal assistance.

(a) Federal awarding agencies shall comply with the applicable report clearance requirements of 5 CFR part 1320, "Controlling Paperwork Burdens on the Public," with regard to all forms used by the Federal awarding agency in place of or as a supplement to the Standard Form 424 (SF-424) series.

(b) Applicants shall use the SF-424 series or those forms and instructions prescribed by the Federal awarding agency.

(c) For Federal programs covered by E.O. 12372, "Intergovernmental Review of Federal Programs," the applicant shall complete the appropriate sections of the SF-424 (Application for Federal Assistance) indicating whether the application was subject to review by the